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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

TEKSOFT, INC.

Case No.:

ANIL KUMAR REDDY MANNURU

COMPLAINT

Plaintiffs,

- Against -

UNITED STATES CITIZENSHIP AND

IMMIGRATION SERVICES,

Defendants

DESCRIPTION OF ACTION

1. This Complaint is brought by plaintiffs TEKSOFT, INC. and ANIL KUMAR REDDY MANNURU, against the defendant United States Citizenship and Immigration Services (USCIS), to hold unlawful and set aside the USCIS's decisions of June 29, 2021, and July 12, 2021, rejecting both of Teksoft's Forms

I-129, Petition for NonImmigrant Worker, upon behalf of Mr. Mannuru. Inasmuch as neither decision was in accordance with law, they should both be held unlawful, and set aside.

JURISDICTION

2. This being a civil action against the United States arising under the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*, original jurisdiction over this matter is vested in this Court by 28 U.S.C. § 1331.

DESCRIPTION OF PARTIES

3. The plaintiff Teksoft, Inc. is a Michigan corporation with its principal place of business in Troy, Oakland County, Michigan.

4. The plaintiff Anil Kumar Reddy Mannuru is a citizen and native of India, temporarily in the United States studying pursuant to 8 U.S.C. § 1101(a)(15)(F).

5. The defendant USCIS is a federal agency charged with the authority to adjudicate Forms I-129. It resides in the District of Columbia and Maryland.

BRIEF STATEMENT OF RELEVANT FACTS

6. On approximately June 29, 2021, Teksoft submitted to the USCIS for filing its Form I-129 upon behalf of Mr. Mannuru with various supporting documents. Exhibit A at 1-119.

1 7. This form requested, among other things, that Mr. Manuru's
2 nonimmigrant status in the U.S. be changed to H-1B. Exhibit A at 15-16.
3

4 8. Included with those papers were two checks issued by Teksoft payable to
5 the U.S. Department of Homeland Security in the amounts of \$2460 and \$2500,
6 respectively. Exhibit A at 1.

7 9. These checks were both properly executed with an authorized signature
8 and dated June 27, 2020. *Id.*

9 10. On July 2, 2021, the USCIS rejected Teksoft's petition for filing
10 because “[t]he remittance you submitted with your I-129 petition is not valid
11 because it is expired.” Exhibit A at 125.

12 11. On approximately July 8, 2021, Teksoft refiled the same form I-129 that
13 it did previously with the same supporting papers. Exhibit A at 120-246.

14 12. This filing was largely identical to the previous one except for certain
15 pages which were included in an effort to persuade USCIS to accept this petition
16 for filing even though the registration period for such filings expired on June 30 of
17 that year. Exhibit A at 120-121, 123-127.

18 13. In particular, this subsequent filing included a cover letter explaining (in
19 relevant part) that:

20 Teksoft Systems Inc. in its enclosed 1-129 HI B Cap petition filed on
21 behalf of the beneficiary requesting change of his nonimmigrant status
22 from F1 to H1B. Your office recently returned the petition submitted

1 by our office. Your office indicated that the petition has been returned
2 because "The remittance you submitted with your I-129 petition is not
3 valid because it is expired."
4

5 However, we would like to bring to your attention that the check
6 submitted with the petition (Check# 4349 for \$2460) does not have any
7 expiration date noted on the front of checks and the USCIS has
8 apparently made an error based on the fact that the USCIS requires that
9 the filing fee checks must be dated within the past six months.
10

11 We are enclosing herewith a letter (Exhibit 1) from Chase Bank
12 confirming that the current check ¹processing policy of Chase bank
13 allows that any check without an expiration date noted on the front of
14 the check may be processed. The letter also confirms that "Check #
15 4349 for \$2460 that you wrote dated 6/27/2020 for \$2,460.00 to the U.S.
16 Department of Homeland Security with Memo subject "Anil Kumar
17 Reddy Mannuru" is still eligible for deposit and processing. Please
18 instruct the payee to proceed with depositing the item."

19 Accordingly, the USCIS should accept the check # 4349 for \$2460 and
20 accordingly consider the petition as properly filed.

21 Exhibit A at 123.
22

23 14. Nevertheless, on July 12, 2021, the USCIS rejected Teksoft's petition
24 yet again, this time because:
25

26 Petitioners seeking to file H-1B cap-subject petitions for the fiscal
27 year (FY) 2022 cap, including those eligible for the advanced degree
28 exemption, must first electronically register the beneficiary and pay
the associated \$10 H-1B registration fee for each beneficiary. That
registration must then be selected for a petitioner to be eligible to
submit a petition on behalf of that beneficiary. An FY2022 H-1B cap-

1 Exhibit A at 127.

1 subject petition is not properly filed unless it is based on a valid
2 selected registration for the beneficiary named in the petition. A copy
3 of the selected registration notice must be submitted with the petition.
4

5 The FY 2022 H-1B cap initial registration period was March 9, 2021
6 to March 25, 2021. All H-1B FY2022 registrations properly submitted
7 during the initial registration period were subject to a computer-
generated selection process.

8 Upon review it has been determined that your petition was not
9 properly filed. USCIS does not consider the petition to be properly
10 filed for the reason(s) noted below. Therefore, USCIS has rejected the
11 petition and is returning it to you. Note that you may resubmit this
12 petition only if it is received by USCIS within the filing period
indicated on your registration selection notice for the beneficiary
named in the petition.

13 Your Form I-129 petition subject to the FY2022 cap was not properly
14 filed during the filing period listed on your registration selection
15 notice. With your petition you provided a registration selection notice
16 with a filing period of April 1, 2021 to June 30, 2021. However, your
17 petition was received by USCIS after the latest date you were eligible
to file your petition.

18 Exhibit A at 248.

19 15. Because both of these petitions were improperly rejected, plaintiffs have
20 commenced this litigation seeking to have these decisions held unlawful and set
21 aside.
22

23
24
25 **CAUSES OF ACTION**

26
27
28 **COUNT I**

THE FIRST REJECTION WAS CONTRARY TO USCIS REGULATIONS

16. The petition initially filed by Teksoft was signed with a valid signature, executed, filed in compliance with the regulations governing the filing of Form I-129 and submitted with the correct fees. Exhibit A at 1-119.

17. Nor were the checks paying those fees returned as unpayable because of insufficient funds, or for any other reason. In fact they were not tendered to Teksoft's bank at all. Exhibit A at 125, 127.

18. Accordingly, the USCIS's rejection of Teksoft's first petition was not in accordance with 8 C.F.R. § 103.2(a)(7), governing rejections, nor any other applicable law.

COUNT II

**THE REJECTION OF THE SECOND PETITION WAS NOT IN
ACCORDANCE WITH LAW BECAUSE THE REGISTRATION DEADLINE
WAS EQUITABLY TOLLED**

19. The improper rejection of Teksoft's first petition equitably tolled the deadline for filing a subsequent petition in this matter.

20. Accordingly, the USCIS's second rejection of Teksoft's petition was also not in accordance with law.

COUNT III

THE USCIS HAS UNLAWFULLY WITHHELD AND UNREASONABLY
DELAYED THE PROPER ADJUDICATION OF TEKSOFT'S PETITIONS BY
UNLAWFULLY REJECTING THEM

21. 5 U.S.C. § 706 provides in relevant part that in actions under the Administrative Procedure Act “The reviewing court shall—

(1) compel agency action unlawfully withheld or unreasonably delayed;”.

22. By improperly rejecting (twice) Teksoft's Forms I-129, the USCIS has unlawfully withheld a decision on the plaintiffs' said petitions and applications.

RELIEF REQUESTED

WHEREFORE this Court should hold unlawful and set aside the USCIS's rejection of Teksoft's Forms I-129 and should order the agency to accept them for filing and adjudicate them within thirty (30) days of the order holding the rejection of the same unlawful.

Respectfully submitted, August 12, 2021.

/s/ Michael E. Piston

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